

said, and for general relief, and the order of the Chancellor was in conformity with the prayer.

Under these circumstances the cause, originating upon this creditor's bill, is brought on for hearing, and the solicitors of the parties have been heard.

The complainant, Little, founds his right to a decree for the sale of the real estate of Hyland Price exclusively upon the judgment of condemnation of 1822, and the *fiat executio* of 1829. Upon these, and upon the alleged insufficiency of the personal estate, he insists that he is entitled to a decree for the sale of the realty. He denies emphatically the right of the defendants to look behind these judgments, by which he maintains that Hyland Price, and all who represent him, are concluded.

It is not the purpose of the court, at this time, to intimate any opinion upon the merits of this case, or to express in any way the conclusions to which the Chancellor may come, upon full consideration of the circumstances under which those judgments were rendered; because, according to the view which I now take, it would be premature at this time to pass a decree in this cause.

The counsel for the complainant argued that the injunction granted upon the bill filed by Price in 1830, and which was not dissolved until 1846, and upon which an appeal is now depending in the Court of Appeals, did not operate to restrain this complainant, Little, from proceeding in equity, and, that the whole effect of the prohibition was to prevent proceedings at law upon the judgment. This, however, is not the view which I take of the subject, and as the bill in this case was not filed until after the dissolution of the injunction, though Price died in 1842, it may be inferred it was not the view at one time taken by the complainant himself, as it is difficult to assign a reason for the delay in filing the bill until after the dissolution of the injunction, unless it was thought that its continuance was a legal or equitable impediment to such a proceeding.

But, independently of any inference to be drawn from the conduct of the complainant, and in the absence of any direct au-